

# HOUSE BILL 459

P3

0lr1962  
CF SB 454

---

By: **Delegates Healey, Bronrott, Eckardt, Feldman, Morhaim, ~~and Smigiel~~  
Smigiel, Elliott, Jenkins, Krebs, and McDonough**

Introduced and read first time: January 29, 2010

Assigned to: Health and Government Operations

---

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2010

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Licensing Agencies – Justification Statements Required for Fee**  
3 **Increases Proposed by Regulations**

4 FOR the purpose of requiring units of State government, when adopting by regulation  
5 increases or decreases in fees for licenses to practice any business activity,  
6 business or health occupation, or business or health profession licensed or  
7 otherwise regulated under State law, to submit to the Joint Committee on  
8 Administrative, Executive, and Legislative Review certain information  
9 explaining or justifying the reasons for the proposed increase or decrease; and  
10 generally relating to regulations proposed by units of State government that  
11 license and regulate various occupations, professions, and business activities.

12 BY repealing and reenacting, with amendments,  
13 Article – State Government  
14 Section 10–110  
15 Annotated Code of Maryland  
16 (2009 Replacement Volume)

17 Preamble

18 WHEREAS, The units of the Executive Branch of State government that  
19 license and regulate by State law various health and business occupations and  
20 professions and business related activities periodically propose, through the regulatory

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 process, increases in license and permit fees for those occupations, professions, and  
2 activities; and

3 WHEREAS, When seeking fee increases by regulation, the units are not  
4 consistent with respect to the justification provided on which they relied to propose the  
5 increase in the fees for the licenses or permits issued by them, and, in many instances,  
6 no justification is provided at all; and

7 WHEREAS, The General Assembly finds that there is a need to strengthen its  
8 ability to review, analyze, and otherwise engage in effective legislative oversight of  
9 proposed regulations by units of State government that seek to increase licensing fees  
10 for various occupations and professions and business activities and to foster greater  
11 transparency with respect to and accountability for those increases; and

12 WHEREAS, The work of the Joint Committee on Administrative, Executive,  
13 and Legislative Review (AELR), as the statutory committee of the General Assembly  
14 charged with the oversight of Executive Branch regulations, would be enhanced by its  
15 having meaningful and practical information submitted to it from units of State  
16 government, when they seek occupational and professional license fee increases, that  
17 sets forth their justification for the increases; now, therefore,

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – State Government**

21 10–110.

22 (a) [This] **EXCEPT FOR SUBSECTION (C) OF THIS SECTION, THIS** section  
23 does not apply to a regulation adopted under § 10–111(b) of this subtitle.

24 (b) At least 15 days before the date a proposed regulation is submitted to the  
25 Maryland Register for publication under § 10–112 of this subtitle, the promulgating  
26 unit shall submit to the State Children’s Environmental Health and Protection  
27 Advisory Council established under § 13–1503 of the Health – General Article for  
28 review any proposed regulations identified by the promulgating unit as having an  
29 impact on environmental hazards affecting the health of children.

30 (c) (1) At least 15 days before the date a proposed regulation is submitted  
31 to the Maryland Register for publication under § 10–112 of this subtitle, the  
32 promulgating unit shall submit the proposed regulation to the Committee and the  
33 Department of Legislative Services.

34 (2) (I) **IF THE PROPOSED REGULATION, EITHER IN WHOLE OR**  
35 **IN PART, SUBMITTED TO THE COMMITTEE AND THE DEPARTMENT OF**  
36 **LEGISLATIVE SERVICES IN ACCORDANCE WITH PARAGRAPH (1) OF THIS**  
37 **SUBSECTION INCLUDES AN INCREASE OR DECREASE IN A FEE FOR A LICENSE TO**

1 PRACTICE ANY BUSINESS ACTIVITY, BUSINESS OR HEALTH OCCUPATION, OR  
2 BUSINESS OR HEALTH PROFESSION LICENSED OR OTHERWISE REGULATED  
3 UNDER STATE LAW, THE PROMULGATING UNIT SHALL INCLUDE CLEARLY  
4 WRITTEN EXPLANATORY REASONS THAT JUSTIFY THE INCREASE OR DECREASE  
5 IN THE FEE.

6 (ii) IF A REGULATION SUBMITTED UNDER SUBPARAGRAPH  
7 (i) OF THIS PARAGRAPH PROPOSES AN INCREASE IN A FEE FOR A LICENSE, THE  
8 WRITTEN JUSTIFICATION ALSO SHALL INCLUDE INFORMATION ABOUT:

9 1. THE AMOUNT OF MONEY NEEDED BY THE  
10 PROMULGATING UNIT TO OPERATE EFFECTIVELY OR TO ELIMINATE AN  
11 IMBALANCE BETWEEN THE REVENUES AND EXPENDITURES OF THE UNIT;

12 2. THE MOST RECENT YEAR IN WHICH THE  
13 PROMULGATING UNIT HAD LAST INCREASED ITS FEES;

14 3. THE STRUCTURE OF THE PROMULGATING UNIT AS  
15 TO WHETHER IT IS ONE THAT RETAINS THE LICENSE FEES IT RECEIVES OR  
16 PASSES THEM THROUGH TO A NATIONAL ORGANIZATION OR ASSOCIATION THAT  
17 CREATES AND ADMINISTERS A UNIFORM LICENSING EXAMINATION THAT IS  
18 TAKEN BY ANYONE IN THE UNITED STATES WHO IS SEEKING A LICENSE TO  
19 PRACTICE A PARTICULAR OCCUPATION OR PROFESSION OR BUSINESS ACTIVITY  
20 ISSUED BY THE PROMULGATING UNIT;

21 4. MEASURES TAKEN BY THE PROMULGATING UNIT  
22 TO AVOID OR MITIGATE THE NECESSITY OF A FEE INCREASE AND THE RESULTS  
23 OF THOSE MEASURES;

24 5. SPECIAL CIRCUMSTANCES ABOUT THE ACTIVITIES  
25 AND RESPONSIBILITIES OF THE PROMULGATING UNIT, INCLUDING  
26 INVESTIGATIONS OF INDIVIDUALS LICENSED BY THE UNIT, THAT HAVE HAD AN  
27 ADVERSE IMPACT ON THE UNIT'S OPERATING EXPENSES;

28 6. CONSIDERATION GIVEN BY THE PROMULGATING  
29 UNIT TO THE HARDSHIP A LICENSE FEE INCREASE MAY HAVE ON INDIVIDUALS  
30 AND TRAINEES LICENSED OR REGULATED BY THE UNIT; AND

31 7. ACTIONS TAKEN BY THE PROMULGATING UNIT TO  
32 ELICIT THE OPINIONS OF THE INDIVIDUALS WHO ARE LICENSED BY THE  
33 PROMULGATING UNIT AND THE MEMBERS OF THE PUBLIC AS TO THE  
34 EFFECTIVENESS AND PERFORMANCE OF THE PROMULGATING UNIT.

**HOUSE BILL 459**

1           (d)   (1)   The Committee is not required to take any action with respect to a  
2 proposed regulation submitted to it pursuant to subsection (c) of this section.

3           (2)   Failure by the Committee to approve or disapprove the proposed  
4 regulation during the period of preliminary review provided by subsection (c) of this  
5 section may not be construed to mean that the Committee approves or disapproves the  
6 proposed regulation.

7           (3)   During the preliminary review period, the Committee may take  
8 any action relating to the proposed regulation that the Committee is authorized to  
9 take under §§ 10–111.1 and 10–112 of this subtitle.

10          (e)   Prior to the date specified in subsection (c) of this section, the  
11 promulgating unit is encouraged to submit the proposed regulation to the Committee  
12 and to consult with the Committee concerning the form and content of that regulation.

13          SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2010.

Approved:

---

Governor.

---

Speaker of the House of Delegates.

---

President of the Senate.